

Message Text

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43

ACTION XMB-04

INFO OCT-01 NEA-10 ISO-00 EB-07 COME-00 TRSE-00 L-03 /025 W

----- 049434

R 301356Z NOV 76

FM AMEMBASSY DAMASCUS

TO SECSTATE WASHDC 751

C O N F I D E N T I A L DAMASCUS 8235

STATE PASS EXPORT-IMPORT BANK

E.O. 11652: GDS

TAGS: EFIN, PFOR, EINV, SY, US

SUBJECT: EXIM CLAIM

REF: DAMASCUS 8155, DAMASCUS 7860

1. SUMMARY: EXIM CLAIM WAS AMONG THOSE DISCUSSED WITH IMADI NOVEMBER 21. WE ASSUME IT WILL BE RETAINED ON LIST OF CLAIMS TO BE FORMALLY PRESENTED TO SARG. AT SAME TIME, EXIM'S LAWYER IS OPTIMISTIC REGARDING RECOVERY OF SUBSTANTIAL PART OF EXIM CLAIM THROUGH SYRIAN COURTS AND HIS EFFORTS ARE CONTINUING. WE ARE NOT SURE WHAT IMPACT THE TWO PRECEEDINGS WILL HAVE ON EACH OTHER. END SUMMARY.

2. FOLLOWING IS EMBASSY'S UNDERSTANDING OF CURRENT STATUS OF EXIM CLAIM. WHEN DEPARTMENT'S LEGAL REPRESENTATIVE HUANG VISITED DAMASCUS THIS MONTH FOR PRELIMINARY CONSIDERATION OF CLAIMS MATTERS, HE BROUGHT WORD THAT EXIM WISHED TO HAVE ITS CLAIM INCLUDED IN LIST OF OUTSTANDING CLAIMS WHICH WOULD BE SUBJECT TO BILATERAL NEGOTIATION. CLAIM WAS THEREFORE SHOWN AS FOLLOWS ON PRELIMINARY LIST DISCUSSED WITH MINISTER OF ECONOMY AND FOREIGN TRADE IMADI ON NOV. 21: "EXPORT-IMPORT BANK (BOUSTANY CASE). BANK GUARANTEE TO GEORGE R. BOUSTANY AND FILS, ALEPPO, WHICH WAS NATIONALIZED IN 1965. IN DEFAULT SINCE 1963. U.S. DOLLARS 81,807.69 (WITH PART INTEREST INCLUDED)." AFTER PERUSING LIST, IMADI NOTED THAT EACH ITEM HAD LONG HISTORY AND EACH POSED SPECIAL DIFFICULTIES

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FOR SARG (SEE REF A). HE MENTIONED SPECIFICALLY THE

BOUSTANY CASE.

3. ASSUME THAT EXIM CLAIM WILL BE LISTED IN SAME FASHION WHEN LIST OF CLAIMS IS FORMALLY PRESENTED TO SARG, THOUGH DEPT MAY WISH TO UPDATE MONETARY FIGURE TO INCLUDE INTEREST TO DATE.

4. HUANG ALSO TALKED WITH HAZEM JAZZAR, EXIM'S LOCAL LAWYER, REGARDING PROSPECTS FOR REOPENING SYRIAN NATIONALIZATION CASE TO INCLUDE EXIM AMONG CREDITORS OF GEORGE R. BOUSTANY AND FILS. LAWYER WAS OPTIMISTIC THAT CASE COULD BE BROUGHT TO SUCCESSFUL CONCLUSION THROUGH COURTS. BOUSTANY TRUSTEES HAD BEEN REDUCED TO FIGHTING CASE, JAZZAR STATED, ON TECHNICALITIES. (ONE SUCH WAS ARGUMENT THAT XIM BANK WAS NOT SAME INSTITUTION AS EXPORT-IMPORT BANK.) FURTHER, JAZZAR STATED THAT SYRIAN LAW WOULD GIVE EXIM FIRST CLAIM ON APPROXIMATELY \$40,000 GENERATED BY SALE OF EQUIPMENT FINANCED BY EXIM, AN AMOUNT SUFFICIENT TO PAY OFF PRINCIPAL OF CLAIM. LAWYER WAS UPSET, HOWEVER, AT PROSPECT THAT U.S. MIGHT PRESENT EXIM CLAIM FOR BILATERAL NEGOTIATION SINCE SETTLEMENT BY THIS ROUTE MIGHT DEPRIVE HIM OF CONTINGENCY FEE WHICH WAS BASIS ON WHICH HE HAD ACCEPTED TO REPRESENT EXIM. HE IS CONTINUING, HOWEVER, TO PURSUE EXIM'S CASE THROUGH COURTS.

5. EXIM CLAIM, THEREFORE, IS PROCEEDING ALONG TWO TRACKS: THE FIRST THROUGH THE SYRIAN LEGAL SYSTEM AND THE SECOND THROUGH INCLUSION ON THE LIST OF CLAIMS, WHEN PRESENTED, TO BE NEGOTIATED BILATERALLY WITH SARG.

6. COMMENT: AWARD OBTAINED THROUGH COURTS MIGHT WELL BE HIGHER THAN USG NEGOTIATED CLAIM SETTLEMENT. MOREOVER, COURTS THE WORLD OVER MOVE SLOWLY AND ALEPPO NO EXCEPTION. FORMAL PRESENTATION OF BOUSTANY CLAIM BY USG TO SARG BEFORE COURT DECIDES MAY CAUSE COURT TO DROP CASE. ON THE OTHER HAND, IF JAZZAR'S OPTIMISM IS MISPLACED AND THE COURT FINDS AGAINST EXIM, THE USG CLAIM AGAINST THE SARG MAY BE PREJUDICED. IN SUM, WE ARE NOT SURE WHAT IMPACT THE TWO PROCEEDINGS WILL HAVE ON EACH OTHER. END COMMENT.

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7. FOREGOING DRAFTED FOLLOWING HUANG'S DEPARTURE FROM POST. HIS COMMENTS OR AMENDMENTS, AS WELL AS THOSE OF THE EXPORT-IMPORT BANK, WOULD BE APPRECIATED.
MURPHY

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NATIONALIZATION, CLAIMS, COMPENSATION
Control Number: n/a
Copy: SINGLE
Draft Date: 30 NOV 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976DAMASC08235
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760443-0987
From: DAMASCUS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976115/aaaaadvf.tel
Line Count: 111
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION XMB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 DAMASCUS 8155, 76 DAMASCUS 7860
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 23 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <23 JUN 2004 by izenbei0>; APPROVED <22 OCT 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXIM CLAIM
TAGS: EFIN, PFOR, EINV, SY, US, XMB, (BOUSTANY, GEORGE R)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006